Exs Reg. Each

Director of Information
General Services Administration
Washington, D.C. 20405

Rt. 12, Frederick, Md. 21701
4/12/78

FOIA APPEAL

Dear Sir,

This is my appeal from the denial of information by the National Archives in its letter sheup dated April 14,1978.

My request covers information I had originally asked for three years ago, was not then or since given or offered, and was thereafter given to another on what appears to have been an exclusive basis (not only by the National Archives.)

I believe that these and other and well-known special considerations constitute a waiver of what might otherwise be proper basis for withholding.

This is far from the only time records that I asked for and was not given were given on an exclusive basis to another whose writing could be anticipated to be congenial to official desires.

This, of course, was not the intent of the Act. I do not believe the exemptions were intended to be applicable in such official misuse of the Act.

In this case the delay in responding to my request, a not uncommon refusal to comply with the time requirements of the Act, has had other consequences. Because these could be anticipated I find myself wondering if the delay was not deliberate. There is no explanation of the delay in Dr. O'Neill's letter.

In my C.A. 75-1448 the appeals court (No. 77-1851) sent the case back to the district court to consider accepting new evidence.

Some of this new evidence is the subject matter of the request.

GSA and the National Archives, therefore, have delayed responding to my request, which means delayed denying it, until I had filed what was required of me by the appeals court.

Meanwhile, GSA, National Archives and the CIA have made representations relating to this denied information to the district court, based on which the district court held for them and against me.

I regard this as a more serious matter than mere misuse of the Act and its exemptions for purpose opposite those of the Congress in enacting and in amending the Act.

Under these circumstances I hope you will act on this appeal promptly. The order of the appeals court requires speed. I believe all courts should be fully and accurately informed and that all sides should have a fair opportunity to prepare and present and contest evidence. (In this case you have even prevented my informing counsel of the rejection in time for him to inform the district court with what he filed.)

I believe I also requested a waiver of all costs and fees. In this connection, in my C.A. 77-2155, in which the court ruled for me on such waiver, it asked the actual cost of xeroxing records. In that case the Department of Justice was not able to answer. I thereofre ask to be informed what you regard as the actual cost of making a copy.

Sincerely,

Harold Weisberg